IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.RAMACHANDRAN
&
THE HONOURABLE MR. JUSTICE A.K.BASHEER

MONDAY, THE 27TH NOVEMBER 2006 / 6TH AGRAHAYANA 1928

Mat.Appeal.No. 81 of 2006()
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OP.9/2004 of FAMILY COURT,KOZHIKODE
.....

PETITIONER: APPELLANT/RESPONDENT
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N.P.SULAIMAN, MANHALAMPOYIL HOUSE,
PANNIKOTTOOR, KODUVALLY (VIA),
KOZHIKODE.

BY ADV. SRI.S.SANTHOSH KUMAR

RESPONDENTS: PETITIONER
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MOHAMMED KHAIS, AGED 10 YEARS,
REPRESENTED BY HIS MOTHER AND GUARDIAN,
HAZEENA, D/O.ABDURAHIMANKUTTY, MANGAD,
UNNIKKULAM AMSOM DESOM, KODUVALLY (VIA),
KOZHIKODE.

BY ADV. DR.K.B.MUHAMED KUTTY (SR.)
SRI.K.M.FIROZ

THIS MATRIMONIAL APPEAL HAVING BEEN FINALLY HEARD ON 27/11/2006, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

**M. RAMACHANDRAN & A.K. BASHEER, JJ.**

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**Mat.AppealNO. 81 OF 2006**

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**DATED THIS THE 27th DAY OF NOVEMBER, 2006.**

**JUDGMENT**

Basheer, J.

Father of a minor child is the appellant. He challenges the common order passed by the Family Court, Kozhikode directing him to pay past and future maintenance to the minor.

2. While O.P.No.9/2004 was filed for past maintenance for and on behalf of the minor, M.C. No.11/2004 was filed for future maintenance. The appellant/respondent remained absent and he was set ex-parte. The court below allowed O.P.No.9/2004 directing the appellant/respondent to pay an amount of Rs.50,000/- as past maintenance for the period from January 1, 2001 to January 1, 2004. M.C.No.11/2004 was allowed directing the appellant to pay maintenance at the rate of Rs.1,500/- per month with effect from January 1, 2004.

3. When this appeal came up for admission on August 24, 2006 the appellant was directed to deposit a sum of Rs.15,000/- in two equal instalments within a time frame.

4. It is submitted by the learned counsel for the respondent that the appellant has not complied with the above direction.

5. We have carefully perused the impugned order and other relevant materials on record. Though the appellant has stated that he was prevented from

participating in the proceedings before the court below due to reasons beyond his control, we do not find any justifiable ground to accept the above version. Though it is contended by the appellant that he could not appear before the court below since he was undergoing some treatment for the injury on his back and also because of the hospitalisation of his second wife, no document has been produced to substantiate the above contentions. As rightly pointed out by the learned counsel for the respondent, the appellant seemed to be more concerned about his second wife and the newly born children in the said wedlock than in the respondent. Further, this appeal itself was preferred by the appellant with a delay of 113 days.

6. Having regard to the entire facts and circumstances, we are unable to hold that the court below had committed any error in passing the impugned order. The amount of maintenance awarded cannot also be held to be unreasonable or exorbitant at all.

The appeal fails and it is accordingly dismissed.

**(M.Ramachandran, Judge.)**

**(A.K. Basheer, Judge.)**

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